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159. But the court reasons that as the real property passed at once to the heirs-at-law, and could be assets in the hands of the administrator only when taken possession of for the payment of debts, the administrator, therefore, did not occupy a fiduciary relation to the property. *Hill v. Mitchell*, 5 Ark. 608; *Noon v. Finnegan*, 29 Minn. 418, 13 N. W. 197; *Sloggy v. Dilworth*, 38 Minn. 179, 36 N. W. 451; 8 Am. St. Rep. 656.

The dissenting opinion protests vigorously against the decision of the court, and holds that the profits of the transaction clearly belonged to the heirs-at-law. And the weight of authority would seem to support this view. *Foster v. Brown*, 3 Rich. L. (S. C.) 254; 11 Am. & Eng. Enc. Law, 1020.

EVIDENCE—HEARSAY—COURT AND JURY.—*IVES v. ELLIS ET AL.*, 62 N. E. 138 (N.Y.),—*Held*, that letters setting forth opinions for or against one of the parties are inadmissible as hearsay evidence, for the charge of the trial judge, that such letters be considered by the jury as merely showing a correspondence between parties and statements therein be disregarded, cannot destroy the prejudice already created. O'Brien and Cullen, J. J., *dissenting*.

This decision is very important, in that it departs from previous rulings of New York courts and strict rules of evidence, and tends towards better and broader principles of law. *Gall. v. Gall*, 114 N. Y. 109; *Holmes v. Moffat*, 120 N. Y. 159; *People v. Priodri*, 164 N. Y. 469, hold the opposite view.

GAMING CONTRACT—PURCHASE FOR FUTURE DELIVERY—STATE STATUTE—PUBLIC POLICY.—*PARKER ET AL V. MOORE*, 111 FED. 470 (S. C.).—A South Carolina statute declares void a contract for future delivery, unless it is the intention of both parties that the article shall be delivered and received at the date specified. *Held*, that a broker advancing margins cannot recover from his principal who testifies that he did not intend an actual delivery, and that a state is final judge of its own public policy.

The purpose of this statute is to destroy utterly dealing in "futures." It goes behind the acts to the sworn intention of the parties.

In determining what is public policy as regards the restraints of trade the court limits itself to the constitution, laws, and judicial decisions of the State itself. Safety in this pursuit lies only in avoiding general considerations, personal views of political faith or religious dogma and following closely concrete opinion as formulated in public law. *Vidal v. Girard's Ex's.*, 2 How. 197; *Swann v. Swann*, 21 Fed. 299.

INSURANCE—CONDITIONS OF POLICY—SUICIDE.—*LATIMER V. SOVEREIGN CAMP, WOODMEN OF THE WORLD*, 40 S. E. Rep. 155 (S. C.).—A benefit certificate was issued by the defendant in favor of the plaintiff upon the life of her husband who died while a member of said order. The conditions of said policy having a direct bearing on the facts in issue are, * * * (3) "death by the hand or act of the assured, whether sane or insane; (4) death by the hand of the beneficiary, except by accident." The question presented for the consideration of the court was, whether such policy with said condition was void as against public policy.

Held, a clause in a benefit certificate excepting insurer from liability where insured's death was caused by "his own hand or act whether sane or insane" is not void as against public policy. McIver, C. J., and Gary, A. J., *dissenting*.

Such a condition in a policy of life insurance is valid. If the assured commits suicide, although at the time utterly bereft of reason, it is death by his own hand or act within the meaning of the condition, and the policy is forfeited. *De Gogorza v. The Knickerbocker Life Ins. Co.*, 65 N. Y. 232.

INSURANCE—LIFE—GIFT—CIRCUMSTANTIAL EVIDENCE.—*LORD v. NEW YORK LIFE INS. CO. ET AL.*, 65 S. W. 699 (Texas).—A brother made repeated statements to the effect that he had provided for his sister in event of his death, by a life insurance policy, and said that a certain policy, payable to his estate, belonged to her. On one occasion he gave a friend some papers in a sealed envelope, requesting that they be kept in a place of safety for him, and said that the envelope contained a policy for his sister. Later the papers were taken away and put in the care of his bankers. *Held*, that the evidence was sufficient to warrant a finding that he had given the policy to his sister. *Pleasants, J.*, dissenting.

Any act on the part of the owner of a chose in action, showing not only a persistent intention to transfer, but that he regarded himself as having carried such intention into effect, is sufficient, and no written evidence of the transaction is required. *Malone's Appeal*, 38 Leg. Int. 303.

INSURANCE—RAILROAD INJURIES—INDEMNITY—CONTRACT—CONSTRUCTION — INSTANTANEOUS DEATH.—*WORCESTER & S. ST. R. R. CO. v. TRAVELERS INS. CO.*, 62 N. E. Rep. 365.—A policy of insurance providing protection to railroad against its common law or statutory liability to any person accidentally injured while traveling on same, was *held*, not to include liability for instantaneous death of passenger. *Morton and Barker, J. J.*, dissenting.

The court had no authorities to follow where a similar policy of insurance had been construed. It is well recognized that there is a right of action for death from accident. *Adm's v. The S. N. E. Tel. Co.*, 72 Conn. 617. The court, however, decided that this policy, while allowing compensation for injury which injured person could have recovered himself, was not sufficiently broad to cover case of instantaneous death.

MANDAMUS—JURISDICTION OF SUPREME COURT—FEE OF STREETS—PEOPLE EX. REL. *KOCOUREK v. CITY OF CHICAGO ET AL.*, 62 N. E. 179 (Ill.).—*Held*, that original jurisdiction of Supreme Court does not include mandamus suits seeking to compel a city to remove a superstructure over a public alley, for a city, as a municipality, does not hold the fee of the streets in trust for the people of the State at large. *Magruder, J.*, dissenting.

This decision is a direct departure from previous decisions of this court. In *McCartney v. Railroad Co.*, 112 Ill. 611; *Smith v. McDowell*, 148 Ill. 51; *Byrne v. Railway Co.*, 169 Ill. 75, it was held that city holds fee of public streets in trust for people of State at large. But the above decision seems to be founded upon sounder law, following the line laid down in *Hagaman v. Moore*, 84 Ind. 496; *State v. Newell*, 90 N. C. 705; *Phillips v. Dunkirk, W. and P. R. Co.*, 78 Pa. 177.

MUNICIPAL CORPORATIONS—BOND ISSUE—CONSTRUCTION.—*LETOURNEAU v. CITY OF DULUTH*, 88 N. W. 529 (Minn.).—Chap. 351, Laws of Minn. provides that no city council of any city shall issue bonds for any purpose, amounting to \$100,000 or over until such proposition to issue above that amount shall be approved by a majority of the legal voters. Charter of the city of Duluth contains similar provision. City